IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 933 OF 1997

IN

CONTEMPT NOTICE OF MOTION NO. 525 OF 1994

IN

SUIT NO. 954 OF 1987

Ms. G. Sukumari & others... ..... Appellants.

Versus

The Bank of Tokyo Ltd. & Ors..... Respondents.

Mr. U. J. Makhija for the Appellants.

Mr. Sangram Suryavanshi i/by M/s. Mulla & Mulla & C.B. & Caroe for the Respondents.

**CORAM : R. M. LODHA, and S. A. BOBDE, JJ.**

**DATED : 21ST DECEMBER, 2006.**

**P.C.:**

The appeal is from the order dated 25th September, 1997, whereby the present appellant nos.1 and 2 have been held guilty of having disobeyed the orders dated 3rd April, 1987 and 19th February, 1988 and sentenced to undergo simple imprisonment for a period of two months each and also to pay a fine of

Rs.2,000/- each, failing which further simple imprisonment for an additional period of fifteen days.

2. Mr. U. J. Makhija, Counsel for the appellants, does not challenge that by virtue of the partnership agreements, two of them being of 21st January, 1992, third agreement of 4th May, 1993 and the fourth agreement of 24th May, 1993, the estate of the partnership firm M/s. Chembra Estates stood transferred to Premier Plantations Limited and thereby there was breach of the orders dated 3rd April, 1987 and 19th February, 1988. However, his submission is that while the original partners of the firm M/s. Chembra Estates, who are parties to the suit and who were bound to obey the orders dated 3rd April, 1987 and 19th February, 1988 have been punished with the fine of Rs.2,000/-, the appellant nos.1 and 2, who became new partners and the estate of the partnership firm M/s. Chembra Estates stood transferred to the new firm, namely, Premier Plantations Limited (appellant no.3), for the disobedience of the orders of the Court, the learned single Judge has awarded punishment of simple imprisonment as well as fine, which is not justified.

3. Since the matter of contempt is always between the Court and the contemnor, the Counsel for the original plaintiffs submitted, and in our view very fairly, that the Court may consider the aspect of sentence canvased by the Counsel for the appellants as deemed fit.

4. Having reflected over the matter, we find substance in the submission of the Counsel for the appellants that the facts of the case warranted parity of punishment to all the contemnors. There is not even a semblance of material on record that justifies different treatment to the appellants than the erstwhile partners / contemnors, who have been directed to pay fine only.

5. We, accordingly, dispose of the appeal by the following order:

(i) The finding recorded by the learned single Judge that the appellant nos.1 and 2 are guilty of civil contempt is maintained.

(ii) The punishment awarded to appellant nos.1 and 2 to undergo simple imprisonment for a period of

two months each, is set aside. However, the order directing the appellant nos.1 and 2 to pay fine of Rs.2,000/- each, and in default to undergo simple imprisonment for an additional period of fifteen days is maintained.

Sd/-

**(R. M. LODHA, J.)**

Sd/-

**(S. A. BOBDE, J.)**